

1 ERIK BABCOCK (Cal. 172517)  
2 LAW OFFICES OF ERIK BABCOCK  
3 717 Washington St., 2d Floor  
4 Oakland, CA 94607  
(510) 452-8400 Tel  
(510) 452-8405 Fax

5 Attorney for Defendant  
6 LUKE BRUGNARA

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9 IN THE UNITED STATES DISTRICT COURT

10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11

12 UNITED STATES OF AMERICA,

Nos. CR 14-00306 WHA

13 Plaintiff,

MOTION TO CONTINUE TRIAL

14 v.

15 LUKE BRUGNARA,

Date: September 8, 2014

16 Defendant \_\_\_\_\_ /

Time: 9:00 a.m.

Dept: WHA

17 TO THE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF  
18  
19 CALIFORNIA:

20 PLEASE TAKE NOTICE that on September 9, 2014, at 9:00 a.m., or as soon thereafter  
21 as the matter may be heard, defendant Luke Brugnara, by and through counsel, will and hereby  
22 move the court for an order continuing the trial, currently set to commence jury selection on  
23 September 17, 2014, and evidence on September 22, 2014. This motion is made on the ground  
24 that counsel cannot be effectively prepared sufficient to provide the defendant with  
25 constitutionally effective assistance of counsel. This motion is based on the attached declaration  
26 of counsel, the files and records in this case, and on such evidence and argument as may be  
27  
28

presented at the hearing on the motion.

## DECLARATION OF COUNSEL IN SUPPORT OF MOTION

I, Erik Babcock, declare as follows:

1. I was appointed to represent Mr. Brugnara in early July, 2014. At that time I was informed by the Federal Defender that there were only a few hundred pages of discovery from the government.;
2. Later in July I was provided with additional discovery from the government totaling approximately 12,000 pages of pdf files. Shortly after I received this discovery the court continued the trial, at my request, from mid-August to the current dates.
3. I have tried to get this case ready for trial as scheduled, but I am still not prepared to effectively defend this case at trial as currently scheduled. The case has taken longer than I expected to prepare for trial for several reasons. First, as the court knows, I am a solo practitioner. I do not have staff on hand to review or summarize documents. On larger federal cases, I typically hire associate counsel or paralegals to assist in case preparation. I had planned to hire associate counsel in this case to review the discovery. However, the person I planned to hire turned out not to be available in August, 2014, due a trial that was scheduled in a case to which he had already committed. Additionally, the pdf files I was provided by the government were not provided in a searchable format; in other words, they all had to be reviewed manually, as opposed to key-word searched. Additionally, in August I was provided with a hard disc containing a copy of my client's email account, which was voluminous. I was also appointed to represent Mr. Brugnara

1 in his supervised release case, number CR 08-00222 WHA. I felt it necessary to  
2 spend a fair amount of time getting familiar with the proceedings in Mr.  
3 Brugnara's original case, more in preparation to defend the current charges than to  
4 defend the allegation that he violated the terms of his supervised release.  
5

6 4. As the court knows from prior psychological reports, sentencing proceedings, and  
7 prior court appearances, Mr. Brugnara is an unusually difficult client. He has  
8 previously been diagnosed as bipolar, and his emotional and psychological  
9 condition became particularly exacerbated after a couple of months in county jail,  
10 necessitating my devoting an inordinate amount of time and energy (and this  
11 court's time and energy) towards ongoing bail proceedings.  
12

13 5. I did not take on any other new cases in July and August after I accepted  
14 appointment in this case in order to commit myself to Mr. Brugnara's defense.  
15 Since being appointed to represent Mr. Brugnara, I have also had co-counsel  
16 appear for me numerous times in other federal cases in which I was counsel of  
17 record before I accepted an appointment on Mr. Brugnara's behalf (e.g., United  
18 States v. Alvarez, No. CR 14-00120 EMC and United States v. Cruz, No. 11-  
19 00355 DLJ).  
20

21 6. Notwithstanding my efforts to get ready for trial, I still find myself unprepared to  
22 effectively defend Mr. Brugnara at trial as currently scheduled.  
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I declare under penalty of perjury that the foregoing is true and correct. Executed this 7<sup>th</sup>  
4  
5 day of September, 2014 at Oakland, California.

/S/Erik Babcock  
ERIK BABCOCK

Attorney for Defendant  
LUKE BRUGNARA